

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

ROBERT L. PRIESTER,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. 4:04CV1748 RWS
	)	
JAMES A. GAMMON,	)	
	)	
Respondents.	)	

**MEMORANDUM OPINION**

Petitioner Robert L. Priester seeks a writ of habeas corpus. In his Petition he alleges multiple grounds for relief. I referred this matter to United States Magistrate Judge David D. Noce for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On June 6, 2007, Judge Noce filed his recommendation that Priester's habeas petition should be denied. Judge Noce found that Priester's petition was not timely filed. Judge Noce also considered the claims of the petition and found them to be without merit.

Priester filed his objection to Judge Noce's Report and Recommendation on June 15, 2007. After a de novo review of this case, I will adopt and sustain the thorough reasoning of Judge Noce and will deny Priester's habeas petition for the reasons stated in the Report and Recommendation dated June 6, 2007.

I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal constitutional right. *See Tiedeman v. Benson*, 122 F.3d 518, 522 (8th Cir. 1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings. *Cox v. Norris*, 133 F.3d 565, 569 (8th Cir. 1997) (citing *Flieger v. Delo*, 16 F.3d 878, 882-83 (8th Cir. 1994)).


I believe that Priester has not made such a showing on the grounds raised in his petition. Therefore, I will not issue a certificate of appealability.

Accordingly,

**IT IS HEREBY ORDERED** that Petitioner Robert L. Priester's Petition for Writ of Habeas Corpus is **DENIED**.

**IT IS FURTHER ORDERED** that the Court will not issue a certificate of appealability.

A separate judgment in accordance with this Memorandum and Order is entered this same date.

  
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RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE

Dated this 29th day of June, 2007.